

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

THE CHAMBERLAIN GROUP LLC

Plaintiff,

v.

OVERHEAD DOOR CORPORATION and  
GMI HOLDINGS INC.,

Defendants.

Case No. 2:21-cv-0084-JRG

**JURY TRIAL DEMANDED**

**JOINT SUBMISSION OF PLAINTIFF'S AND DEFENDANTS'  
JOINT PROPOSED AND DISPUTED VERDICT FORM**

Plaintiff The Chamberlain Group LLC ("Chamberlain") and Defendants Overhead Door Corporation and GMI Holdings Inc. ("Overhead Door") (collectively, the "Parties") hereby file the attached Joint Proposed and Disputed Verdict Form for this Court's consideration. Text in black has been agreed to by the parties; text highlighted in yellow reflects Plaintiff's proposed language and/or objections; and text highlighted in green reflects Defendants' proposed language and/or objections.

Date: January 31, 2022

Respectfully submitted,

By: /s/ Benjamin C. Elacqua  
Ruffin Cordell  
cordell@fr.com  
Texas Bar Number 04820550  
Daniel Gopenko  
Virginia Bar Number 83932  
gopenko@fr.com  
**FISH & RICHARDSON P.C.**  
1000 Maine Ave SW, Suite 1000  
Washington, DC 20024  
Telephone: 202-783-5070  
Facsimile: 202-783-2331  
  
Benjamin C. Elacqua  
Texas Bar Number 24055443

elacqua@fr.com  
Kathryn Quisenberry  
Texas Bar Number 24105639  
quisenberry@fr.com  
**FISH & RICHARDSON P.C.**  
1221 McKinney Street, Suite 2800  
Houston, TX 77010  
Telephone: 713-654-5300  
Facsimile: 713-652-0109

Aamir A. Kazi  
Georgia Bar Number 104235  
kazi@fr.com  
**FISH & RICHARDSON P.C.**  
1180 Peachtree Street, 21<sup>st</sup> Floor  
Atlanta, GA 30309  
Telephone: (404) 724-2811

Jared A. Smith (*Pro Hac Vice*)  
California Bar Number 306576  
jasmith@fr.com  
**FISH & RICHARDSON P.C.**  
12860 El Camino Real, Suite 400  
San Diego, CA 92130  
Telephone: (858) 678-5070

Scott M. Flanz (*Pro Hac Vice*)  
New York Bar Number 5423801  
flanz@fr.com  
**FISH & RICHARDSON P.C.**  
Times Square Tower, 20th Floor  
New York, NY 10036  
Telephone: (212) 765-5070  
Facsimile: (212) 258-2291

Melissa Smith  
Texas Bar Number 24001351  
melissa@gillamsmithlaw.com  
**GILLAM & SMITH, LLP**  
303 South Washington Avenue  
Marshall, Texas 75670  
Telephone: 903-934-8450  
Facsimile: 903-934-9257

**COUNSEL FOR PLAINTIFF**  
**THE CHAMBERLAIN GROUP LLC**

/s/ David C. Callahan

David K. Callahan  
IL Bar No. 6206671  
Kenneth G. Schuler  
IL Bar No. 6226036  
Marc N. Zubick  
IL Bar No. 6308239  
Raj Patel  
IL Bar No. 6321274  
**LATHAM & WATKINS LLP**  
330 N. Wabash Avenue, Suite 2800  
Chicago, IL 60611  
Telephone: (312) 876-7700  
Fax: (312) 993-9767  
kenneth.schuler@lw.com  
david.callahan@lw.com  
marc.zubick@lw.com  
raj.patel@lw.com

S. Giri Pathmanaban  
TX Bar No. 24074865  
**LATHAM & WATKINS LLP**  
140 Scott Drive  
Menlo Park, CA 94025  
Telephone: (650) 328-4600  
Fax: (650) 463-2600  
giri.pathmanaban@lw.com

Susan Y. Tull  
D.C. Bar No. 992644  
Gabriel K. Bell  
D.C. Bar No. 987112  
**LATHAM & WATKINS LLP**  
555 Eleventh Street, NW, Suite 1000  
Washington, D.C. 20004-1304  
Telephone: (202) 637-2200  
Fax: (202) 637-2201  
susan.tull@lw.com  
gabriel.bell@lw.com

Bradley A. Hyde  
CA Bar No. 301145  
**LATHAM & WATKINS LLP**  
650 Town Center Dr., 20<sup>th</sup> Floor  
Costa Mesa, CA 92843  
Telephone: (714) 755-8041  
Fax: (714) 755-8290  
bradley.hyde@lw.com

Stephen A. Maniscalco  
NY Bar No. 5387063  
**LATHAM & WATKINS LLP**  
1271 Avenue of the Americas  
New York, NY 10020  
Telephone: (212) 906-1200  
Fax: (212) 751-4864  
stephen.maniscalco@lw.com

Michael C. Smith  
TX Bar No. 18650410  
**SCHEEF & STONE, LLP**  
113 East Austin Street  
Marshall, TX 75670  
Telephone: (903) 938-8900  
michael.smith@solidcounsel.com

Scott W. Breedlove  
TX Bar No. 00790361  
Nathan Cox  
TX Bar No. 24105751  
**CARTER ARNETT PLLC**  
8150 N. Central Expy, 5th Floor  
Dallas, TX 75206  
Telephone (214) 550-8188  
Fax: (214) 550-8185  
sbreedlove@carterarnett.com  
ncox@carterarnett.com

**ATTORNEYS FOR DEFENDANTS  
OVERHEAD DOOR CORPORATION  
AND GMI HOLDINGS INC.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on all counsel of record via email on this 31st day of January, 2022.

/s/ Benjamin C. Elacqua

Benjamin C. Elacqua

**CERTIFICATE OF CONFERENCE**

The undersigned hereby certifies that counsel for the parties met and conferred throughout January are in agreement with the content of this Verdict Form.

/s/ Benjamin C. Elacqua

Benjamin C. Elacqua

**UNITED STATES DISTRICT COURT  
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MARSHALL DIVISION**

THE CHAMBERLAIN GROUP LLC

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OVERHEAD DOOR CORPORATION and  
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**JURY TRIAL DEMANDED**

**VERDICT FORM**

In answering the following questions and completing this Verdict Form, you are to follow all the instructions I have given you in the Court's Final Jury Instructions. Your answers to each question must be unanimous. Some of the questions contain legal terms that are defined and explained in detail in the Final Jury Instructions. You should refer to and consider the Final Jury Instructions as you answer the questions in this Verdict Form.

As used herein, the following terms have the following meanings:

- "Chamberlain" or "Plaintiff" refers to Plaintiff The Chamberlain Group LLC.
- "Defendants" or "Overhead Door" refers to Defendants Overhead Door Corporation and GMI Holdings, Inc.

- “Asserted Patents” refers to U.S. Patent Nos. 8,587,404 (the “’404 patent”), 9,644,416 (the “’416 patent”), 7,852,212 (the “’212 patent”), and 8,144,011 (the “’011 patent”).

**QUESTION NO. 1A – INFRINGEMENT ('404 patent):**

Did Chamberlain prove by a preponderance of the evidence that Overhead Door infringed any of the following Asserted Claims of the '**404 patent**?

Claim 4	Yes: _____	No: _____
Claim 6	Yes: _____	No: _____
Claim 7	Yes: _____	No: _____
Claim 8	Yes: _____	No: _____
Claim 9	Yes: _____	No: _____
Claim 11	Yes: _____	No: _____
Claim 16	Yes: _____	No: _____
Claim 17	Yes: _____	No: _____
Claim 18	Yes: _____	No: _____
Claim 19	Yes: _____	No: _____
Claim 20	Yes: _____	No: _____



**QUESTION NO. 1B – INFRINGEMENT ('416 patent):**

Did Chamberlain prove by a preponderance of the evidence that Overhead Door infringed any of the following Asserted Claims of the '**416 patent?**

Claim 1	Yes: _____	No: _____
Claim 2	Yes: _____	No: _____
Claim 3	Yes: _____	No: _____
Claim 4	Yes: _____	No: _____
Claim 5	Yes: _____	No: _____
Claim 6	Yes: _____	No: _____
Claim 7	Yes: _____	No: _____
Claim 8	Yes: _____	No: _____
Claim 9	Yes: _____	No: _____
Claim 10	Yes: _____	No: _____
Claim 11	Yes: _____	No: _____
Claim 12	Yes: _____	No: _____
Claim 13	Yes: _____	No: _____
Claim 14	Yes: _____	No: _____

**QUESTION NO. 1C – INFRINGEMENT ('212 patent):**

Did Chamberlain prove by a preponderance of the evidence that Overhead Door infringed any of the following Asserted Claims of the '**212 patent?**

Claim 1	Yes: _____	No: _____
Claim 2	Yes: _____	No: _____
Claim 15	Yes: _____	No: _____
Claim 16	Yes: _____	No: _____
Claim 19	Yes: _____	No: _____

**QUESTION NO. 1D – INFRINGEMENT ('011 patent):**

Did Chamberlain prove by a preponderance of the evidence that Overhead Door infringed any of the following Asserted Claims of the '**011 patent?**

Claim 1	Yes: _____	No: _____
Claim 2	Yes: _____	No: _____
Claim 4	Yes: _____	No: _____

**If you answered YES to Question No. 1A, then answer Question No. 2A.<sup>1 2</sup>**

**QUESTION NO. 2A – INVALIDITY ('404 patent):**

<sup>1</sup> PLAINTIFF'S POSITION: This instruction properly directs the jury to not consider Overhead Door's *affirmative defense* of invalidity in the event that infringement is not found. Overhead Door did not bring a counterclaim for invalidity. As a result, if the jury finds that there is no infringement, Overhead Door's affirmative defenses of invalidity are moot. *See Boss Control, Inc. v. Bombardier Inc.*, 410 F.3d 1372, 1376 n. 1 (Fed. Cir. 2005) (“[Defendant] only filed affirmative defenses and not counterclaims. Since there are no pending counterclaims with respect to invalidity,” finding noninfringement without a finding on validity was a “proper final judgment.”); *Multiform Desiccants, Inc. v. Medzam, Ltd.*, 133 F.3d 1473, 1481 (Fed. Cir. 1998) (expressly declining to require trial courts to decide issues of validity once a dispute has been finally disposed of on other grounds).

Indeed, as some courts have observed, such a finding could produce reversible error. *See Wireless Ink Corp. v. Facebook, Inc.*, 969 F. Supp. 2d 318, 338–39 (S.D.N.Y. 2013), *aff'd sub nom. Wireless Ink Corp. v. Google, Inc.*, 570 F. App'x 941 (Fed. Cir. 2014) (“[W]here, as here, the issue of invalidity is raised solely as an affirmative defense, rather than as a counterclaim for declaratory judgment, a district court's resolution of the invalidity issue after a finding of non-infringement constitutes unnecessary dicta, if not, in certain circumstances, reversible error.”).

<sup>2</sup> DEFENDANTS' POSITION: Defendants object to the inclusion of this instruction. Defendants are entitled to determine whether the Asserted Claims are invalid even if they are not infringed where Defendants have asserted affirmative defenses of invalidity against the Asserted Claims. None of CGI's cited case law stands for the presumption that a Court or jury cannot or should not reach the issue of invalidity if no infringement is found, merely because invalidity was only raised as an affirmative defense. In fact, the Federal Circuit has explicitly held that “*Multiform Desiccants* permits a district court to resolve the issue of invalidity, even if the issue was raised only as an affirmative defense and even if the court finds that the patent was not infringed.” *Hill-Rom Co. v. Kinetic Concepts, Inc.*, 209 F.3d 1337, 1344 (Fed. Cir. 2000).

And while the Federal Circuit in *Multiform Desiccants* recognized the Court's *discretion* to decide the affirmative defense, the Court explicitly stressed “the useful general rule that trial courts should decide all litigated issues, in the interest of finality.” 133 F.3d at 1481. As the Court explained, “if the Federal Circuit had reversed the judgment of non-infringement, the issue of validity would have required remand and decision, perhaps followed by another appeal, and accompanying cost, delay, and inefficiency.” The same applies here: the parties will have expended significant resources litigating the issue of invalidity by the time the issue reaches the jury, and withholding this issue from the jury would only risk having to re-litigate this issue again should a finding of non-infringement be overturned on appeal.

Did Overhead Door prove by clear and convincing evidence that any of the following

Asserted Claims of the '**404 patent** are invalid?

*No is a finding for Chamberlain. Yes is a finding for Overhead Door.*

Claim 4:	Yes: _____	No: _____
Claim 6:	Yes: _____	No: _____
Claim 7:	Yes: _____	No: _____
Claim 8:	Yes: _____	No: _____
Claim 9:	Yes: _____	No: _____
Claim 11:	Yes: _____	No: _____
Claim 16:	Yes: _____	No: _____
Claim 17:	Yes: _____	No: _____
Claim 18:	Yes: _____	No: _____
Claim 19:	Yes: _____	No: _____
Claim 20:	Yes: _____	No: _____

**If you answered YES to Question No. 1B, then answer Question No. 2B.<sup>3,4</sup>**

**QUESTION NO. 2B – INVALIDITY ('416 patent):**

Did Overhead Door prove by clear and convincing evidence that any of the following

Asserted Claims of the **'416 patent** are invalid?

*No is a finding for Chamberlain. Yes is a finding for Overhead Door.*

Claim 1:	Yes: _____	No: _____
Claim 2:	Yes: _____	No: _____
Claim 3:	Yes: _____	No: _____
Claim 4:	Yes: _____	No: _____
Claim 5:	Yes: _____	No: _____
Claim 6:	Yes: _____	No: _____
Claim 7:	Yes: _____	No: _____
Claim 8:	Yes: _____	No: _____
Claim 9:	Yes: _____	No: _____
Claim 10:	Yes: _____	No: _____
Claim 11:	Yes: _____	No: _____
Claim 12:	Yes: _____	No: _____
Claim 13:	Yes: _____	No: _____
Claim 14:	Yes: _____	No: _____

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<sup>3</sup> PLAINTIFF'S POSITION: *See* prior comment on invalidity instructions.

<sup>4</sup> DEFENDANTS' POSITION: *See* prior comment on invalidity instructions.

**If you answered YES to Question No. 1C, then answer Question No. 2C.<sup>5,6</sup>**

**QUESTION NO. 2C – INVALIDITY ('212 patent):**

Did Overhead Door prove by clear and convincing evidence that any of the following

Asserted Claims of the **'212 patent** are invalid?

*No is a finding for Chamberlain. Yes is a finding for Overhead Door.*

Claim 1:	Yes: _____	No: _____
Claim 2:	Yes: _____	No: _____
Claim 15:	Yes: _____	No: _____
Claim 16:	Yes: _____	No: _____
Claim 19:	Yes: _____	No: _____

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<sup>5</sup> PLAINTIFF'S POSITION: *See* prior comment on invalidity instructions.

<sup>6</sup> DEFENDANTS' POSITION: *See* prior comment on invalidity instructions.

**If you answered YES to Question No. 1D, then answer Question No. 2D.<sup>7,8</sup>**

**QUESTION NO. 2D – INVALIDITY ('011 patent):**

Did Overhead Door prove by clear and convincing evidence that any of the following

Asserted Claims of the **'011 patent** are invalid?

*No is a finding for Chamberlain. Yes is a finding for Overhead Door.*

Claim 1:	Yes: _____	No: _____
Claim 2:	Yes: _____	No: _____
Claim 4:	Yes: _____	No: _____

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<sup>7</sup> PLAINTIFF'S POSITION: *See* prior comment on invalidity instructions.

<sup>8</sup> DEFENDANTS' POSITION: *See* prior comment on invalidity instructions.



**If you answered YES to Question No. 1A, then answer Question No. 2A.<sup>9</sup>**

**If you found in Question No. 1A that Defendants infringed any Asserted Claim of the '404 patent and found in Question No. 2A that any such infringed Asserted Claim of the '404 patent was not invalid, then answer Question No. 3A. Otherwise, do not answer Question No. 3A.<sup>10</sup>**

**QUESTION NO. 3A – WILLFUL INFRINGEMENT ('404 patent):**

Did Chamberlain prove by a preponderance of the evidence that Overhead Door willfully infringed any of the following Asserted Claims of the '**404 patent**?

*Yes is a finding for Chamberlain. No is a finding for Overhead Door.*

Claim 4:      Yes: \_\_\_\_\_      No: \_\_\_\_\_

<sup>9</sup> PLAINTIFF'S POSITION: Infringement and willful infringement are properly considered consecutively. For this reason, Chamberlain proposes that willful infringement be considered as Question No. 2. Separating the questions of infringement as Overhead Door proposes is more likely to introduce jury confusion as it distracts from the infringement analysis.

Overhead Door's instruction is further prejudicial as it improperly requires consideration of Overhead Door's affirmative defenses prior to resolving infringement. Chamberlain is entitled for the jury to consider the claims it asserts. Overhead Door may then present its affirmative defenses. Inserting affirmative defenses in between Chamberlain's claims is confusing to the jury and prejudicial.

<sup>10</sup> DEFENDANTS' POSITION: This question deals with willful infringement. CGI's argument that this issue must follow infringement and not consider invalidity has no merit, as the proofs for infringement and willful infringement are fundamentally different. Moreover, it is important for purposes of any potential appeal that the parties know which patent claims the jury found to be willfully infringed and that any claims that the jury found to be willfully infringed were claims that were both infringed and not invalid.

Having the question of willful infringement follow the question of invalidity is also in line with prior verdict forms used by this Court. *See, e.g., Bright Data Ltd. v. Teso LT, et. al*, No. 2:19-cv-00395-JRG.

Claim 6:	Yes: _____	No: _____
Claim 7:	Yes: _____	No: _____
Claim 8:	Yes: _____	No: _____
Claim 9:	Yes: _____	No: _____
Claim 11:	Yes: _____	No: _____
Claim 16:	Yes: _____	No: _____
Claim 17:	Yes: _____	No: _____
Claim 18:	Yes: _____	No: _____
Claim 19:	Yes: _____	No: _____
Claim 20:	Yes: _____	No: _____

**If you answered YES to Question No. 1B, then answer Question No. 2B.<sup>11</sup>**

**If you found in Question No. 1B that Defendants infringed any Asserted Claim of the '416 patent and found in Question No. 2B that any such infringed Asserted Claim of the '416 patent was not invalid, then answer Question No. 3B. Otherwise, do not answer Question No. 3B.<sup>12</sup>**

**QUESTION NO. 3B – WILLFUL INFRINGEMENT ('416 patent):**

Did Chamberlain prove by a preponderance of the evidence that Overhead Door willfully infringed any of the following Asserted Claims of the '**416 patent**?

*Yes is a finding for Chamberlain. No is a finding for Overhead Door.*

Claim 1:	Yes: _____	No: _____
Claim 2:	Yes: _____	No: _____
Claim 3:	Yes: _____	No: _____
Claim 4:	Yes: _____	No: _____
Claim 5:	Yes: _____	No: _____
Claim 6:	Yes: _____	No: _____
Claim 7:	Yes: _____	No: _____
Claim 8:	Yes: _____	No: _____
Claim 9:	Yes: _____	No: _____
Claim 10:	Yes: _____	No: _____
Claim 11:	Yes: _____	No: _____
Claim 12:	Yes: _____	No: _____
Claim 13:	Yes: _____	No: _____
Claim 14:	Yes: _____	No: _____

<sup>11</sup> PLAINTIFF'S POSITION: *See* prior comment on willful infringement instructions.

<sup>12</sup> DEFENDANTS' POSITION: *See* prior comment on willful infringement instructions.

**If you answered YES to Question No. 1C, then answer Question No. 2C.**<sup>13</sup>

**If you found in Question No. 1C that Defendants infringed any Asserted Claim of the '212 patent and found in Question No. 2C that any such infringed Asserted Claim of the '212 patent was not invalid, then answer Question No. 3C. Otherwise, do not answer Question No. 3C.**<sup>14</sup>

**QUESTION NO. 3C – WILLFUL INFRINGEMENT ('212 patent):**

Did Chamberlain prove by a preponderance of the evidence that Overhead Door willfully infringed any of the following Asserted Claims of the '**212 patent**?

*Yes is a finding for Chamberlain. No is a finding for Overhead Door.*

Claim 1:	Yes: _____	No: _____
Claim 2:	Yes: _____	No: _____
Claim 15:	Yes: _____	No: _____
Claim 16:	Yes: _____	No: _____
Claim 19:	Yes: _____	No: _____

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<sup>13</sup> PLAINTIFF'S POSITION: *See* prior comment on willful infringement instructions.

<sup>14</sup> DEFENDANTS' POSITION: *See* prior comment on willful infringement instructions.

**If you answered YES to Question No. 1D, then answer Question No. 2D.<sup>15</sup>**

**If you found in Question No. 1D that Defendants infringed any Asserted Claim of the '011 patent and found in Question No. 2D that any such infringed Asserted Claim of the '011 patent was not invalid, then answer Question No. 3D. Otherwise, do not answer Question No. 3D.<sup>16</sup>**

**QUESTION NO. 3D – WILLFUL INFRINGEMENT ('011 patent):**

Did Chamberlain prove by a preponderance of the evidence that Overhead Door willfully infringed any of the following Asserted Claims of the '**011 patent?**

*Yes is a finding for Chamberlain. No is a finding for Overhead Door.*

Claim 1:	Yes: _____	No: _____
Claim 2:	Yes: _____	No: _____
Claim 4:	Yes: _____	No: _____

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<sup>15</sup> PLAINTIFF'S POSITION: *See* prior comment on willful infringement instructions.

<sup>16</sup> DEFENDANTS' POSITION: *See* prior comment on willful infringement instructions.

**If you answered NO to Question No. 1A, then DO NOT answer Question No. 4A. Answer Question No. 4A ONLY as to any Asserted Claim that you have found BOTH to be INFRINGED and NOT INVALID.<sup>17 18</sup>**

**QUESTION NO. 4A – PATENT INELIGIBLE ('404 patent):**

Did Overhead Door prove by clear and convincing evidence that the elements of the following claims in the '**404 patent** involve only the performance of well-understood, routine, and conventional activities previously known to the industry as of March 24, 2009?

*No is a finding for Chamberlain. Yes is a finding for Overhead Door.*

Claim 4:	Yes: _____	No: _____
Claim 6:	Yes: _____	No: _____
Claim 7:	Yes: _____	No: _____
Claim 8:	Yes: _____	No: _____
Claim 9:	Yes: _____	No: _____
Claim 11:	Yes: _____	No: _____
Claim 16:	Yes: _____	No: _____
Claim 17:	Yes: _____	No: _____
Claim 18:	Yes: _____	No: _____
Claim 19:	Yes: _____	No: _____

<sup>17</sup> PLAINTIFF'S POSITION: For the same reasons discussed in footnote 1, this instruction properly directs the jury to not consider Overhead Door's *affirmative defense* of patent ineligibility in the event that infringement is not found. If the jury finds that there is no infringement, Overhead Door's affirmative defenses are moot. Federal Circuit jurisprudence is clear on this issue as presented in footnote 1.

<sup>18</sup> DEFENDANTS' POSITION: Defendants object to the inclusion of this instruction. As discussed above, Defendants are entitled to determine whether the Asserted Claims are invalid even if they are not infringed where Defendants have asserted affirmative defenses of invalidity against the Asserted Claims. To the extent that any infringement finding is overturned on appeal or on subsequent remand, it is important to know what claims the jury found invalid.

Claim 20: Yes: \_\_\_\_\_ No: \_\_\_\_\_

**If you answered NO to Question No. 1B, then DO NOT answer Question No. 4B. Answer Question No. 4B ONLY as to any Asserted Claim that you have found BOTH to be INFRINGED and NOT INVALID.<sup>19 20</sup>**

**QUESTION NO. 4B – PATENT INELIGIBLE ('212 patent):**

Did Overhead Door prove by clear and convincing evidence that the elements of the following claims in the **'212 patent** involve only the performance of well-understood, routine, and conventional activities previously known to the industry as of May 5, 2009?

*No is a finding for Chamberlain. Yes is a finding for Overhead Door.*

Claim 1:	Yes: _____	No: _____
Claim 2:	Yes: _____	No: _____
Claim 15:	Yes: _____	No: _____
Claim 16:	Yes: _____	No: _____
Claim 19:	Yes: _____	No: _____

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<sup>19</sup> PLAINTIFF'S POSITION: See prior comment on patentability instructions.

<sup>20</sup> DEFENDANTS' POSITION: See prior comment on patentability instructions.



**If you answered NO to Question No. 1C, then DO NOT answer Question No. 4C. Answer Question No. 4C ONLY as to any Asserted Claim that you have found BOTH to be INFRINGED and NOT INVALID.** <sup>21</sup> <sup>22</sup>

**QUESTION NO. 4C – PATENT INELIGIBLE ('011 patent):**

Did Overhead Door prove by clear and convincing evidence that the elements of the following claims in the '**011 patent** involve only the performance of well-understood, routine, and conventional activities previously known to the industry as of May 5, 2009?

*No is a finding for Chamberlain. Yes is a finding for Overhead Door.*

Claim 1:	Yes: _____	No: _____
Claim 2:	Yes: _____	No: _____
Claim 4:	Yes: _____	No: _____

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<sup>21</sup> PLAINTIFF'S POSITION: See prior comment on patentability instructions.

<sup>22</sup> DEFENDANTS' POSITION: See prior comment on patentability instructions.

**If you answered NO to ALL of Question No. 1A through 1D then DO NOT answer Question No. 5.**

**If you answered YES to ALL of Question No. 3A through 3D then DO NOT answer Question No. 5.**

**PROCEED TO ANSWER QUESTION NO. 5 as to ONLY any asserted claims that you have found both to be infringed AND not invalid.**

**QUESTION NO. 5 – DAMAGES:**

What sum of money, paid now, do you find by a preponderance of evidence would fairly and reasonably compensate Chamberlain for its past damages resulting from any infringement you have found?

**Answer in United States Dollars and Cents:**

\$ \_\_\_\_\_

**FINAL PAGE OF THE JURY VERDICT FORM**

You have now reached the end of the Verdict Form and should review it to ensure it accurately reflects your **UNANIMOUS** determinations. The Jury Foreperson should then sign and date the Verdict Form in the spaces below. Once this is done, notify the Court Security Officer that you have reached a verdict. The Jury Foreperson should keep the Verdict Form and bring it when the jury is brought back into the courtroom.

Signed this \_\_\_\_\_ day of March, 2022

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**Jury Foreperson**